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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,407	05/19/2004	Klaus Abraham-Fuchs	2003P07336 US01	6967
7590 Alexander J. Burke Intellectual Property Department 5th Floor 170 Wood Avenue South Iselin, NJ 08830			EXAMINER CHOY, PAN G	
			ART UNIT 3624	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/849,407	Applicant(s) ABRAHAM-FUCHS ET AL.	
	Examiner PAN CHOY	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>19 May 2004 and 8 December 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Introduction

1. The following is a non-final office action in response to Applicant's submission filed on May 19, 2004.

Currently claims 1-30 are pending. Claims 1, 13, 14, 28, 29 and 30 are the independent claims.

Information Disclosure Statement

2. The examiner has reviewed the patents and articles supplied in the Information Disclosure Statements (IDS) provided on May 19, 2004 and December 8, 2004.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 28, 29 and 30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 28, 29 and 30 are rejected under 35 U.S.C. 101 because they recite a method without obvious tie to another statutory class. In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying

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subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. Note that the tie to another statutory class should be in the body of the claim, and substantive.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C 102 that form the basis for the rejections under this section made in this Office Action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Frank et al., (US 2002/0143595 A1).

As to claim 1, Frank discloses a system for use in improving management of a workflow process (see Fig. 2, item 210; and ¶ 39: *identify deficiencies and implement improvements ...workflow systems*), said workflow process comprising a sequence of tasks to be performed by at least one individual, comprising:

an interface processor (see Fig. 3, item 300) for receiving a message indicating occurrence of a performance deficiency (*incident*) in a workflow process (see Fig. 5, item 500; and ¶ 11: *receiving information about an incident*);

a data processor (see Fig. 3, item 300) for storing records in a repository (see Fig. 3, items 320-340: *database*), said record comprising data representing current workflow context information and information identifying said performance deficiency, in response to said received message (see Fig. 5, item 511; ¶ 42: *processor 300 extracts/records the information relating to an incident from database*); and

an analyzer for analyzing said data in said record identifying said performance deficiency to support improvement of said workflow process (see Fig. 6, item 630; and ¶ 10: *Performance of tasks related to the incident is measured to assist in identifying deficiencies and implementing improvements*).

As to claim 2, see the discussion of claim 1. Frank further teaches a system wherein said data processor (see Fig. 3, item 300) stores (see Fig. 8, item 850) a plurality of records in at least one repository (see Fig. 3, items 320-340: *database*), said records comprising data representing current workflow context information and information identifying a plurality of corresponding performance deficiencies (see ¶ 2: *keep a complete record of an incident and procedural workflow...incident occurrences*), and

said analyzer analyzes said data in said records identifying said performance deficiencies to identify a pattern of performance deficiencies in said workflow process (see Fig. 6, item 630; and ¶ 35: *ability to model changes to workflow*) .

As to claim 3, see the discussion of claim 2. Frank further teaches a system wherein said analyzer prioritizes identified performance deficiencies in said workflow process (see Fig. 6, item 630; ¶ 11: *The processor allows performance measurements of tasks related to the incident*).

As to claim 4, see the discussion of claim 2. Frank further teaches a system wherein said analyzer initiates generation of an alert message to a user in response to analyzing said records (see Fig. 8, items 821; and claim 22: *sending a notice to a user that should be alerted of the incident*).

As to claim 5, see the discussion of claim 2. Frank further teaches a system wherein said data processor stores said plurality of records in chronological sequence to facilitate identification of a time of first occurrence of a particular performance deficiency (see Fig. 6, item 617: *time-card records*; and ¶ 59: *it is recognized that the order or sequence of task*).

As to claim 6, see the discussion of claim 1. Frank further teaches a system wherein said performance deficiency comprises at least one of, (a) an error (¶ 39: *failures*), (b) a deficiency in operation (¶ 21: *a chemical spill*), (c) performance below a performance achievable with a proposed workflow process modification (¶ 40: *modeling of the workflow to avoid future failures*), (d) a deficiency of speed of operation (¶ 42: *a chemical spill by a truck driver*), (e) a deficiency in usability (¶ 35: *ability to model changes to workflow*), (f) a deficiency in efficiency (¶ 23: *managements are*

charged with finding new ways to manage and improving outcomes), (g) a deficiency in operational capability and (h) a deficiency in output quality (§ 39: provides benchmarking features to monitor).

As to claim 7, Frank a system according to claim 1, wherein said context information includes at least one of, (a) a time (see § 4: *amount of time for these activities*), (b) a user identifier (Fig. 6, item 612 - *database records*; § 57: *can include the parties involved*), (c) a workflow task identifier (Fig. 6, item 612 - *database records*), (d) a workflow process input parameter (Fig. 5, item 500 - *Input form*), (e) a workflow process output parameter (Fig 8, item 880 - *Send recommendations*), (f) a decision rule applied in said workflow process (§ 34: *the processor can incorporate the new regulations to ensure complies with the new rules*), (g) a location (§ 29: *a central location*) , (h) an active participant (see the body of claim 20: *interviewing participants*), (i) an input terminal (Fig. 1, item 110) and (j) a workflow task result (Fig. 8, item 880 – *send recommendations to decrease future incident occurrence*).

As to claim 8, see the discussion of claim 1. Frank further teaches a system wherein said received message indicating occurrence of a performance deficiency in a workflow process is initiated in response to at least one of, (a) user data entry in a generated user interface display image (see Fig. 5, item 500 and § 10: *receiving information about an incident...from external interfaces to obtain a complete record*) and (b) automated performance assessment derived from workflow process operation monitoring (see Fig. 4).

As to claim 9, see the discussion of claim 1. Frank further teaches a system wherein said workflow process comprising a sequence of tasks to be performed by at least one individual to support healthcare delivery to a patient (see ¶ 65: *depending on the implementation, it is further recognized that the sequence of task can be in any order to achieve the desired end result*; ¶ 46: *Subject matter can also be specialized in... such as healthcare, banking, insurance, pharmaceuticals*).

As to claim 10, see the discussion of claim 1. Frank further teaches a system wherein said analyzer automatically parses said message indicating occurrence of said performance deficiency to identify a category of said performance deficiency (see Fig. 5, item 512 – *determine the types of incident*; and Fig. 8, item 830-840: *notify appropriate personal and send appropriate forms*).

As to claim 11, see the discussion of claim 10. Frank further teaches a system wherein said analyzer automatically identifies said category of said performance deficiency by at least one of, (a) text string matching (see ¶ 57: *the system searches for matching occurs between the type of incident*) and (b) key word matching and said analyzer initiates generation of an alert message to a particular participant associated with said identified category of performance deficiency based on a stored map associating said particular participant with said category (see ¶ 23: *the system and method that designed to create customized plans*; Fig. 8, item 830 – *notify appropriate personal*).

As to claim 12, see the discussion of claim 1. Frank further teaches a system wherein said analyzer analyzes said data in said records by statistically evaluating error frequency of identified performance deficiencies associated with particular workflow tasks (*¶ 39: based on the collected data of previous failures; ¶ 22: number of incidents*).

As to claim 13, Frank teaches a system for use in improving management of a workflow process, said workflow process comprising a sequence of tasks to be performed by at least one individual, comprising:

an interface processor (see Fig. 3, item 300) for receiving a message indicating occurrence of a performance deficiency (*incident*) in a workflow process (see Fig. 5, item 500; and *¶ 11: receiving information about an incident*);

a data processor (see Fig. 3, item 300) for storing a plurality of records in at least one repository (see Fig. 3, items 320-340: *database*), said records comprising data representing workflow context information and information identifying a plurality of corresponding performance deficiencies, in response to said received message (see Fig. 5, items 500 and 511; *¶ 42: processor 300 extracts/records the information relating to an incident from database*); and

an analyzer for initiating generation of an alert message to a user in response to analyzing said records (see Fig. 8, items 821-830; and claim 22).

As to claim 14, Frank discloses a system for use in improving management of a workflow process, said workflow process comprising a sequence of tasks to be

performed by at least one individual to support healthcare delivery to a patient, comprising:

a display generator for initiating display of data representing at least one image enabling a user to enter data identifying a performance deficiency in a workflow process (see ¶ 31: *image storage/retrieval and display on a user's computer*);

a data processor (see Fig. 3, item 300) for storing a plurality of records in at least one repository (see Fig. 3, items 320-340: *database*), said records comprising data representing workflow context information and information identifying a plurality of corresponding performance deficiencies, in response to said entered data identifying said performance deficiency (see Fig. 8, item 850; and ¶ 36: *provides a secure environment for data entry*); and

an analyzer for analyzing said data in said record identifying said performance deficiency to support improvement of said workflow process (see Fig. 6, item 630; and ¶ 10: *Performance of tasks related to the incident is measured to assist in identifying deficiencies and implementing improvements*).

As to claim 15, see the discussion of claim 14. Frank further teaches a system wherein said at least one image supports user entry of items including at least one of

(a) data identifying a particular performance deficiency by selection from a predetermined list of items indicating predetermined categories of performance deficiency (see Fig. 7, item 730: *identify deficiencies*; and Fig. 6, item 611-622),

(b) text concerning a particular performance deficiency (see ¶ 42: *chemical spill by a truck drive may be by alcohol or drug abuse or mechanical problems*),

(c) data selecting a checkbox identifying a particular performance deficiency from a plurality of checkboxes associated with a corresponding plurality of predetermined categories of performance deficiency (see ¶ 58: *the type of information can include the results from drug or alcohol tests; and these predetermined categories may be in the form of a checklist, flowchart, formal instructions or other similar formats*),

(d) data identifying a particular performance deficiency (see Fig. 7, item 730: *identify deficiencies*), provision

(e) data identifying a magnitude of a particular performance deficiency (see ¶ 45: *a broad scale or on a specific topic that identify the areas impacting the organization*),

(f) data identifying urgency of a particular performance deficiency (see ¶ 45: *provides unparalleled resources to identify areas of risk and vulnerability*), and

(g) data identifying user dissatisfaction with particular workflow task performance (see measurements on ¶ 11: *allows performance measurements of tasks related to the incident*).

As to claim 16, see the discussion of claim 15. Frank further teaches a system wherein in response to said user entry of said items, said data processor stores said records comprising data representing workflow context information (see Fig. 8, item 850; and ¶ 36: *provides a secure environment for data entry*).

As to claim 17, see the discussion of claim 14. Frank further teaches a system wherein said at least one image includes pre-populated items including at least one of, (a) a time (see ¶ 4: *amount of time for these activities*), (b) a user identifier (Fig. 6, item 612 - *database records*; ¶ 57: *can include the parties involved*), (c) a context identifier, (d) a workflow task identifier (Fig. 6, item 612 - *database records*), (e) a workflow process input parameter (Fig. 5, item 500 - *Input form*), (f) a workflow process output parameter (Fig. 8, item 880 - *Send recommendations*), (g) a decision rule applied in said workflow process (¶ 34: *the processor can incorporate the new regulations to ensure complies with the new rules*), (h) a location (¶ 29: *a central location*), (i) an active participant (see the body of claim 20: *interviewing participants*), and (j) a workflow task result (Fig. 8, item 880 – *send recommendations to decrease future incident occurrence*), and (k) a terminal identifier (Fig. 1, item 110).

As to claim 18, see the discussion of claim 14. Frank further teaches a system wherein said data processor stores a pointer (*link or record index*) for use in locating said records in said at least one repository (Fig. 6, item 610; and ¶ 41: *data link*).

As to claim 19, see the discussion of claim 14. Frank further teaches a system wherein said display generator initiates display of data representing a workflow image supporting user performance of a task involved in delivering healthcare to a patient, said workflow image including an image element enabling user initiation of display of said data representing said at least one image enabling a user to enter data identifying

said performance deficiency in said workflow process (see ¶ 31 *processor including an image storage/retrieval system and display on a user's computer*).

As to claim 20, see the discussion of claim 14. Frank further teaches a system including said display generator automatically selects a particular image for display enabling a user to enter data identifying said performance deficiency in said workflow process, said particular image being selected based on a type of workflow task associated with said performance deficiency (see ¶ 31: *the processor responds to requests by identifying the appropriate reference, retrieving it from the image storage and display on a user's computer*).

As to claim 21, see the discussion of claim 20. Frank further teaches a system according to claim 20, wherein said particular image for display is selected from images including at least one of, (a) an option list (see ¶ 58: *checklist*), (b) a bar enabling entry of a value on a scale, (c) a bar enabling entry of a colored element representing a value on a scale, (d) a message initiation option (see ¶ 57: *the initial information about an incident*), (e) a hotline initiation option and (f) an urgency selection option (see ¶ 61: *Performance measuring can be chosen by the user; a determination is made as to whether new modes of measurements or metrics are required*).

As to claim 22, see the discussion of claim 14. Frank further teaches a system including a database associating said performance deficiency with a particular type of user interaction, said type of user interaction being associated with at least one of, (a) input of data in support of a workflow process (see ¶ 38: *the workflow system allows a*

user to define business processes... then execute these business process models while monitoring performance), (b) output of data in response to a workflow process (¶ 38: *the workflow system takes an input, adds value to it, and provides an output*) and (c) a decision made in support of a workflow process and said display generator automatically selects an image for display in response to said particular type of user interaction associated with said type of workflow task (see Fig. 7, items 700-720).

As to claim 23, see the discussion of claim 14. Frank further teaches a system including

a database associating said performance deficiency with a particular attribute, said attribute comprising at least one of, (a) presence of data in a workflow process (see Fig. 2, item 230), (b) lateness of arrival of data in response to a workflow process (see Fig. 5, item 511: *extract information from external interfaces*), (c) quality of performance of a task of a workflow process (see Fig. 6, item 616), (d) resources associated with a workflow process (see Fig. 2, items 20-260; and ¶ 35: *the incident management system also has the ability to model changes to workflow and/or available resources to assess associated performance impact*), (e) responsibility for a task of a workflow process (see Fig. 3, items 320-340), (f) urgency associated with a task of a workflow process (see ¶ 45: *provides unparalleled resources to identify areas of risk and vulnerability*) and (g) severity of a problem associated with performance of a task of a workflow process (see ¶ 11: *The processor allows performance measurements of tasks related to the incident*), and

said display generator automatically selects an image for display in response to said particular attribute (see ¶ 9: *the request can be made by the user voluntarily or by the system automatically if the system determines that more information is required*).

As to claim 24, see the discussion of claim 14. The limitation of claim 24 is of the same scope as limitation of claim 22, and is therefore rejected on the same basis.

As to claim 25, see the discussion of claim 24. Frank further teaches a system wherein said database associates a category of performance deficiency with said type of user interaction (see Fig. 6, items 610-622: database associates with different categories; ¶ 17: *interaction between a user and the system*).

As to claim 26, see the discussion of claim 14. Frank further teaches a system, including said at least one image enables a user to interactively modify an image supporting user entry of data identifying a performance deficiency in a workflow process (¶ 38: *allows a user to define business process...the user is walked through the process*).

As to claim 27, see the discussion of claim 14. The limitation of claim 27 is of the same scope as limitation of claim 22, and is therefore rejected on the same basis.

As to claim 28, the method for providing a user interface for use in improving management of a workflow process of claim 28 is of the same scope as limitation of claim 1, and is therefore rejected on the same basis.

As to claim 29, Frank teaches a method for use in improving management of a workflow process, said workflow process comprising a sequence of tasks to be performed by at least one individual, said method comprising the activities of:

receiving a message indicating occurrence of a performance deficiency in a workflow process (see ¶ 10: *the method includes receiving information about an incident*);

storing a plurality of records in at least one repository (see Fig. 3, items 320-340), said records comprising data representing workflow context information and information identifying a plurality of corresponding performance deficiencies, in response to said received message (see Fig. 5, item 500; and ¶ 42: *in the situation of a chemical spill by a truck driver*); and

initiating generation of an alert message to a user in response to analyzing said records (see Fig. 8, element 821; and the body of claim 22: sending a notice to a user that should be alerted to the incident).

As to claim 30, the method for providing a user interface for use in improving management of a workflow process of claim 30 is of the same scope as limitation of claim 14, and is therefore rejected on the same basis.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAN CHOY whose telephone number is (571)270-7038. The examiner can normally be reached on 4/5/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on (571)272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PAN G CHOY/

Examiner, Art Unit 3624

December 21, 2008

/Bradley B Bayat/

Supervisory Patent Examiner, Art Unit 3624